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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,093	11/16/2000	Frank Butaric	CRD-834	5116

7590 05/20/2003

PHILIP S. JOHNSON
ONE JOHNSON AND JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER

MILLER, CHERYL L

ART UNIT PAPER NUMBER

3738

DATE MAILED: 05/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/714,093

Applicant(s)

BUTARIC ET AL.

Examiner

Cheryl Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 4, 2003 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection. However, for further clarity and in response to applicant's argument that the Berry reference does not disclose a common junction but a strut (36) instead, the examiner disagrees. The strut 36 is interpreted by the examiner to be a junction and it is a common junction between the hoop junction and ring junction. The examiner's position is believed to be adequately described in the rejection below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berry et al. (USPN 6,231,598 B1, cited in previous office action) in view DeMarais et al. (USPN 6,355,057 B1, cited in previous office action). Berry discloses a radially expandable stent (see figures 15,

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16, 17, 18, and 20; col.8, lines 36-39) having proximal and distal open ends and a longitudinal axis between, the stent deployable in a body vessel, the stent comprising a plurality of hoops (13) comprising a plurality of interconnected struts (14), the stent having a proximal (63) and a distal hoop (63'), the end hoops configured to have greater radial and longitudinal strength than the hoops between (col.17, lines 22-25), a plurality of sinusoidal rings (75, 108, 21) connecting adjacent hoops (col.9, lines 1-3; col.10, lines 26-32), the rings being formed from a plurality of alternating struts, and a junction of the alternating ring struts and a junction of the hoop struts being a common junction (36, 68; see figures 15, 17, 18). Berry does not disclose however, proximal and distal attachment devices. DeMarais teaches a placement of proximal and distal attachment devices on radially expandable stents (fig.3A, 3C; (60); col.6, lines 66-67; col.7, lines 1-2, 5-6, 14-20), for the purpose of securing a graft to the stent, the graft (col.5, lines 12-16; col.6), providing reinforcement and increased biocompatibility (col.1, lines 29-37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine DeMarais's teaching of stent attachment devices, with the stent of Berry, in order to provide a means for attaching a stent to a graft, which provides reinforcement and increased biocompatibility.

Referring to claim 2, Berry has shown in figure 17 a diamond pattern on hoops.

Referring to claims 3-4, Berry discloses a self-expanding stent, made of superelastic nickel titanium (col.8, lines 60-63; col.18, lines 45-62).

Referring to claim 5, Berry discloses an end hoop having a larger diameter than an adjacent hoop (col.22, lines 1-7).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl L. Miller whose telephone number is (703) 305-2812. The examiner can normally be reached on Monday through Friday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



Cheryl Miller

May 19, 2003



**BRUCE SNOW
PRIMARY EXAMINER**